

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	File Number: EB-04-DT-391
)	
Gerald Parks)	NAL/Acct. No: 200532360003
Licensee of AM Station WEKC)	
Williamsburg, KY)	FRN 0007 9211 90
)	
)	

FORFEITURE ORDER

Adopted: December 7, 2006

Released: December 11, 2006

By the Regional Director, Northeast Region, Enforcement Bureau:

I. INTRODUCTION

1. In this *Forfeiture Order* (“*Order*”), we issue a monetary forfeiture in the amount of five thousand dollars (\$5,000) to Gerald Parks (“Parks”), licensee of AM Radio Station WEKC, Williamsburg, KY, for willful and repeated violations of Sections 17.4(a), 73.3526(e)(4), and 73.3526(e)(12) of the Commission’s Rules (“Rules”).¹ The noted violations involve Parks’ failure to register the antenna structure and failure to maintain in the public inspection file a service contour map and issues/programs lists.

II. BACKGROUND

2. On September 17, 2003 and December 16, 2003, an agent from the Detroit Office inspected station WEKC. As a result of that inspection, the Detroit Office issued an NOV to Parks for (1) monitoring only one EAS source, (2) failing to have a recent ownership report in the public inspection file, (3) failing to have a copy of “The Public and Broadcasting” in the public inspection file, and (4) failing to have an issues/programs list in the public inspection file.²

3. On July 28, 2004, an agent from the Detroit Office inspected radio station WEKC to follow up on the violations found during the inspections in 2003. During the inspection, the agent did not observe an Antenna Structure Registration (ASR) number posted on the tower, as required under the Rules. The agent searched the Commission’s ASR Database and found no evidence that Parks’s tower is registered. During the July 28, 2004 inspection, the agent also found that WEKC’s public inspection file was missing the service contour map and issues/programs lists.

¹ 47 C.F.R. §§ 17.4(a); 73.3526(e)(4), 73.3526(e)(12).

² See *Gerald Parks*, Notice of Violation, NOV No. V20043236005 (rel. December 20, 2003).

4. On August 26, 2005, the Detroit Office issued a Notice of Apparent Liability for Forfeiture in the amount of \$5,000 to Parks for apparent willful and repeated violation of Sections 17.4(a), 73.3526(e)(4), and 73.3526(e)(12) of the Rules.³ Parks submitted a response to the *NAL* on September 28, 2006. In his response, Parks does not dispute the factual findings in the *NAL*, but requests a cancellation or reduction in the forfeiture based on his inability to pay.

III. DISCUSSION

5. The forfeiture amount proposed in this case was assessed in accordance with Section 503(b) of the Communications Act of 1934, as amended (“Act”),⁴ Section 1.80 of the Rules,⁵ and the *Commission’s Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*.⁶ In assessing forfeitures, Section 503(b)(2)(D) of the Act requires that we take into account the nature, circumstances, extent and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require.⁷

6. We decline to grant Parks’ request that we cancel or reduce the proposed forfeiture. The Commission has determined that, in general, an entity’s gross revenues are the best indicator of its ability to pay a forfeiture.⁸ After reviewing Parks’ claim and supporting documentation, we find that a cancellation or reduction of the forfeiture based on inability to pay is not warranted.⁹

7. We have examined Parks’ response to the *NAL* pursuant to the statutory factors above and in conjunction with the Policy Statement. As a result of our review, and based on the record before us, we conclude that Parks willfully and repeatedly violated Sections 17.4(a), 73.3526(e)(4), and 73.3526(e)(12) of the Rules. Considering the entire record and the factors listed above, we find that

³ *Gerald Parks*, Notice of Apparent Liability for Forfeiture, *NAL*/Acct. No. 200532360003 (Enf. Bur., Detroit Office, August 26, 2005) (“*NAL*”).

⁴ 47 U.S.C. § 503(b).

⁵ 47 C.F.R. § 1.80.

⁶ 12 FCC Rcd 17087 (1997), *recon. denied*, 15 FCC Rcd 303 (1999) (“*Forfeiture Policy Statement*”).

⁷ 47 U.S.C. § 503(b)(2)(D).

⁸ *PJB Communications of Virginia, Inc.*, 7 FCC Rcd 2088, 2089 (1992) (forfeiture not deemed excessive where it represented approximately 2.02 percent of the violator’s gross revenues); *Local Long Distance, Inc.*, 15 FCC Rcd 24385, 24389 ¶ 11 (2000), *recon. denied*, 16 FCC Rcd 10023, 10025 ¶ 6 (2001) (forfeiture not deemed excessive where it represented approximately 7.9 percent of the violator’s gross revenues); *Hoosier Broadcasting Corporation*, 14 FCC Rcd 3356 (CIB 1999), *recon. denied*, 15 FCC Rcd 8640, 8641 (Enf. Bur. 2002) (forfeiture not deemed excessive where it represented approximately 7.6 percent of the violator’s gross revenues). In this case, the forfeiture represents a smaller percentage than those issued in the *Local Long Distance, Inc.*, and *Hoosier Broadcasting Corp.*, cases, and only a nominally higher percentage compared to the forfeiture issued in *PJB Communications of Virginia, Inc.*

⁹ Parks submitted additional documentation at the request of staff to support his inability to pay claim. In reviewing Parks’ Federal Income Tax Return and the associated materials, we noted that Parks did not submit a Schedule C or C-EZ, which is the Schedule on which sole proprietors indicate business income (or loss). As the owner and operator of a radio station, we find it unlikely that Parks would not have been required to submit a Schedule C or C-EZ, which might have identified additional gross revenue. We conclude, however, that it is not necessary to follow up with Parks on this issue because we conclude, based on the gross revenue identified in the documentation submitted by Parks, that a reduction or cancellation of the forfeiture is not warranted.

neither reduction nor cancellation of the proposed \$5,000 forfeiture is warranted.

IV. ORDERING CLAUSES

8. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Communications Act of 1934, as amended,¹⁰ and Sections 0.111, 0.311 and 1.80(f)(4) of the Rules,¹¹ Gerald Parks **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of five thousand dollars (\$5,000) for willful and repeated violation of Section 73.1745(a) of the Rules.

9. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) days of the release of this *Order*. If the forfeiture is not paid within the period specified, that case may be referred to the Department of Justice for collection pursuant to Section 504(a) of the Act.¹² Payment of the forfeiture must be made by check or similar instrument, payable to the order of the Federal Communications Commission. The payment must include the NAL/Acct. No. and FRN No. referenced above. Payment by check or money order may be mailed to Federal Communications Commission, P.O. Box 358340, Pittsburgh, PA 15251-8340. Payment by overnight mail may be sent to Mellon Bank /LB 358340, 500 Ross Street, Room 1540670, Pittsburgh, PA 15251. Payment by wire transfer may be made to ABA Number 043000261, receiving bank Mellon Bank, and account number 911-6106. Requests for full payment under an installment plan should be sent to: Associate Managing Director, Financial Operations, 445 12th Street, S.W., Room 1A625, Washington, D.C. 20554.¹³

10. **IT IS FURTHER ORDERED** that a copy of this *Forfeiture Order* shall be sent by Certified Mail, Return Receipt Requested, and regular mail, to Gerald Parks at his address of record and to counsel for Gerald Parks at his address of record.

FEDERAL COMMUNICATIONS COMMISSION

Russell Monie, Jr.
Regional Director, Northeast Region
Enforcement Bureau

¹⁰ 47 U.S.C. § 503(b).

¹¹ 47 C.F.R. §§ 0.111, 0.311, 1.80(f)(4).

¹² 47 U. S. C. § 504(a).

¹³ See 47 C.F.R. § 1.1914.